THE HON'BLE SRI JUSTICE C.Y. SOMAYAJULU

WRIT PETITION NO.11962 of 1996

Dated 26-09-2005

Between:

Ganta Padmaraju and another. ….Petitioners

and

The Special Deputy Collector, Rampachodavaram, and two others.

….Respondents

THE HON'BLE SRI JUSTICE C.Y. SOMAYAJULU

WRIT PETITION No.11962 of 1996

O R D E R:

Petitioner filed this petition questioning the notices issued to them in LTRP Nos.33 of 1995 and 25 of 1993 on the file of the Special Deputy Collector (Tribal Welfare), Rampachodavaram (first respondent).

2. The case of the petitioners is that the provisions of the Andhra Pradesh (Scheduled Area) Land Transfer Regulation do not apply to them inasmuch as they are Tribals and since their status as tribals was declared by the order dated 28-01-1986 in C.M.A.No.11 of 1977 on the file of the Court of the Agent to the Government, East Godavari District, Kakinada, filed by the second respondent herein, holding that they belong to Kondakapu Community, and so first respondent, initiating proceedings again is illegal and improper.

3. First respondent filed his counter affidavit. Second and third respondents did not choose to put in appearance though served.

4. Counter affidavit filed by the first respondent need not be taken into consideration because he is the authority to decide the dispute between the petitioner and respondents 2 and 3.

5. The fact that the status of the petitioners was declared as Kondakapus (tribals) in C.M.A.No.11 of 1977 by order dated 28-01-1986 is not denied or disputed by second respondent. There is not prima facie material on record to show that the status of the petitioners as Tribals is set aside by any competent authority and so respondents 2 and 3 initiating proceedings in LTRP Nos.33 of 1995 and 25 of 1993 on the file of the first respondent and the first respondent taking their case on file is improper and so the proceedings in the said cases against the petitioners are liable to be and hence are quashed. Accordingly rule nisi is made absolute and petition is allowed. No costs.

(C.Y. SOMAYAJULU, J)

Date:26-09-2005

ghn